

APPEAL NO. 023040
FILED DECEMBER 23, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on November 4, 2002. The hearing officer determined that the appellant (claimant) had not sustained a compensable repetitive trauma injury with a date of injury of _____, and that because the claimant did not have a compensable injury, the claimant did not have disability.

The claimant appealed, stressing his testimony and the treating doctor's opinion that he had sustained a repetitive trauma injury to his cervical spine and shoulders and that he had disability. The respondent (self-insured) responds, urging affirmance.

DECISION

Affirmed.

The claimant, a shop foreman in the musical instrument repair department in one of the self-insured's facilities, alleges a cervical spine and shoulder repetitive trauma injury. The claimant's duties were discussed and his treating doctor does indicate a new cervical injury (the claimant had a compensable 1997 repetitive trauma injury). The hearing officer comments:

The work is not intuitively repetitive, and Claimant failed to prove how his duties caused repetitive stress to the cervical spine. (Claimant mentions his shoulders, but the shoulder problems, the doctors conclude, arise from the cervical spine).

Whether the claimant sustained a repetitive trauma injury and had disability presented questions of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the fact finder, the hearing officer was charged with the responsibility of resolving the conflicts and inconsistencies in the evidence and deciding what facts the evidence had established. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The hearing officer was acting within his province as the fact finder in resolving the conflicts and in inconsistencies in the evidence against the claimant. Nothing in our review of the record reveals that the challenged determinations are so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). Accordingly, no sound basis exists for us to disturb those determinations on appeal.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**ACTING SUPERINTENDENT
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Thomas A. Knapp
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Gary L. Kilgore
Appeals Judge